REMARKS

The Office Action has been reviewed carefully and claims 1, 15, 18, 19 and 28 have been amended in order to place the application in condition for allowance. Support for the new language contained in claim 28 can be found at page 4, lines 21-22 and 27-28, of the specification. Claims 9, 10 and 17 have been canceled. No new matter has been added. In view of the foregoing amendments and following remarks, Applicant submits that claims 1, 8, 15, 16, 18, 19 and 28 are in condition for allowance.

Examiner's Interview

Applicant's attorney wishes to thank Examiners Khan and Douyon very much for the courtesies extended in the telephone interview conducted on May 2, 2008. A summary of the interview follows.

In the interview, Examiner Khan stated that independent claims 1 and 15 as amended distinguish over the cited prior art of record. Examiner Khan then suggested that claim 1 be further amended to include "water;" and that claim 15 be further amended to recite that the claimed composition contains "optionally, a water soluble fertilizer, a soluble surfactant and a source of iron."

With respect to independent claim 28, Examiner Khan stated that Drahos et al. disclose the use of fungicides, and thus this additive reads on insecticides, pesticides and herbicides recited in claim 28. Examiner Khan also stated that the other additives, such as fertilizers, surfactants, stabilizers, stickers and wetting agents are broad terms that render the claims indefinite. Examiner Khan suggested that if there is support in the specification, claim 28 should be amended to include specific examples of these additives.

Finally, Examiner Khan stated that, barring the finding of additional prior art, the application would be allowed. Examiner Khan also stated that upon allowance of the application, the method claims would be reentered and also allowed.

The Claimed Invention

The claimed invention, as claimed in amended claim 1, is directed to an aqueous green foliage colorant composition consisting of humic acid, fulvic acid, water and a water soluble acid blue dye.

The claimed invention, as claimed in amended claim 15, also is directed to an aqueous green foliage colorant composition consisting of humic acid, fulvic acid, water, a water soluble

anionic acid blue dye, and optionally a water soluble fertilizer, a soluble surfactant and a source of iron.

The claimed invention, as claimed in amended claim 28, further is directed to an aqueous green foliage colorant composition consisting of humic acid, fulvic acid, water and a water soluble acid blue dye and additives selected from the group consisting of surface active agents such as alcohol ethoxylates, phenyl ethoxylates and polyethylene/polypropylene block copolmers, and fertilizers such as ammonia sulfate, formaldehyde, phosphate, potassium and urea.

35 U.S.C. § 103 Rejection of Claims 1, 4-10, 15-19 and 28

Claims 1, 4-10, 15-19 and 28 are rejected under 35 U.S.C. § 103(a) as being obvious over Drahos et al. in view of "From Rovral to Chipco, but always Green" (http://www.bayer-escience.co.uk/ChipcoGreenStory.pdf). (Applicant notes that claims 4-7 have been canceled, and thus addresses this rejection to claims 1, 8-10, 15-19 and 28). The Examiner asserts that Drahos et al. teach foliage sprays comprising humic or fulvic acids, urea, iron EDTA and water and the Rovral article teaches acid blue 9 colorant added to fungicides.

Independent Claims 1, 15 and 28

Claims 1, 15 and 28 have been amended to recite, in pertinent part, an aqueous green foliage colorant composition consisting of humic acid, fulvic acid, water and a water soluble acid blue dye. Thus, claims 1, 15 and 28 as amended recite an aqueous green foliage colorant composition closed to any other constituents.

According to the Supreme Court in *KSR,* it is axiomatic that a claimed invention is not obvious solely because it is composed of elements that are all individually found in the prior art. KSR Int'l Co. v. Teleflex Inc., 82 USPQ2d 1385 (2007). Motivation must exist to combine the elements with a reasonable expectation of success at the time of the invention.

Drahos et al. teach biosupplements in which humic acid and fulvic acid are but two materials disclosed in a laundry list of materials. The Rovral article teaches that it is necessary to combine two dyes, acid blue 9 and a yellow dye, "which combined to turn the grey liquid Rovral into Rovral green" (page 2, paragraph 2).

The Examiner has stated in a previous Office Action that "when ingredients are well known and combined for their known properties, the combination is obvious absent unexpected results."

Applicant points out that the surprising, unexpected feature of the claimed invention is that when only one dye, namely, an acid blue dye, is combined with humic acid and fulvic acid, this composition imparts a natural green color to foliage. Humic acid and fulvic acid are not added to the claimed composition for their known properties as a soil supplement, as taught by Drahos et al. in their laundry list of materials, but rather to enhance the effect of the blue dye to result in an unexpected and surprising natural green foliage colorant.

Furthermore, Applicant submits that the Rovral article actually teaches away from the claimed invention, as it teaches the necessity to combine both an acid blue dye with a yellow dye in order to obtain a green color. More importantly, Applicant points out that claims 1, 15 and 28 have been amended to recite the transitional phrase "consisting of," and thus claims 1, 15 and 28 are closed to any other constituents, such as the yellow blue dye disclosed by the Rovral article. Thus, Applicant submits that one skilled in the art would not be motivated to combine the teachings of Drahos et al. with the Rovral article to obtain the unexpected and surprising natural green foliage colorant with a reasonable expectation of success, as required by claims 1, 15 and 28.

Applicant submits, therefore, that neither Drahos et al. nor the Rovral article, either alone or in combination, teaches or suggests the green foliage colorant composition of the claimed invention as claimed in claims 1, 15 and 28, in which the combination of humic acid, fulvic acid and an acid blue dye results surprisingly in a green foliage colorant. Applicant, therefore, respectfully requests withdrawal of the rejection of claims 1, 15 and 28 under 35 U.S.C. § 103(a).

Dependent Claims 8-10 and 16-19

Claims 9, 10 and 17 have been canceled. The features of dependent claims 8, 16, 18 and 19 are not asserted as independently establishing patentability apart from the claim or claims from which they depend, and thus they too are deemed neither to be taught nor suggested by Drahos et al. and the Rovral article, either alone or in combination. Applicant, therefore, respectfully requests withdrawal of the rejection of claims 8, 16, 18 and 19 under 35 U.S.C. § 103(a).

35 U.S.C. § 103 Rejection of Claims 1, 8-10, 15-19 and 28

Claims 1, 8-10, 15-19 and 28 are rejected under 35 U.S.C. § 103(a) as being obvious over Drahos et al. in view of Forsyth et al. The Examiner asserts that Forsyth et al. teach the addition of 0.002% Hexacol Acid Blue 9 to fungicide compositions.

Independent Claims 1, 15 and 28

Claims 1, 15 and 28 have been amended to recite, in pertinent part, an aqueous green foliage colorant composition consisting of humic acid, fulvic acid, water and a water soluble acid blue dye. Thus, claims 1, 15 and 28 as amended recite an aqueous green foliage colorant composition closed to any other constituents.

Drahos et al.'s disclosure is as described hereinabove. With respect to Forsyth et al., this reference teaches a buffered phosphorus solution in which 19 g of Hexacol Acid Blue 9 is added to 20 liters of water, which then is added to a phosphorus acid solution. The acid blue dye results in the solution having a light-blue color (column 4, line 23), not the surprising and unexpected green color of the claimed composition, when added in combination with humic acid and fulvic acid, as required in claims 1, 15 and 28. Parenthetically, Applicant points out that the concentration of dye that is added by Forsyth et al. would not in practice impart any significant color to foliage.

More importantly, Applicant points out that claims 1, 15 and 28 have been amended to recite the transitional phrase "consisting of," and thus claims 1, 15 and 28 are closed to any other constituents, such as the phosphorus acid solution disclosed by Forsyth et al. Applicant submits that one skilled in the art would not be motivated to combine the teachings of Drahos et al. and Forsyth et al. to obtain the unexpected and surprising natural green foliage colorant with a reasonable expectation of success, as required by claims 1, 15 and 28. Applicant submits, therefore, that neither Drahos et al. nor Forsyth et al., either alone or in combination, teaches or suggests the green foliage colorant composition of the claimed invention as claimed in claims 1, 15 and 28, in which the combination of humic acid, fulvic acid and an acid blue dye results surprisingly in a green foliage colorant.

Dependent Claims 8-10 and 16-19

Claims 9, 10 and 17 have been canceled. The features of dependent claims 8, 16, 18 and 19 are not asserted as independently establishing patentability apart from the claim or claims from which they depend, and thus they too are deemed neither to be taught nor suggested by

Drahos et al. and Forsyth et al., either alone or in combination. Applicant, therefore, respectfully requests withdrawal of the rejection of claims 8, 16, 18 and 19 under 35 U.S.C. § 103(a).

35 U.S.C. § 103 Rejection of Claims 1, 10, 15-17 and 28

Claims 1, 10, 15-17 and 28 are rejected under 35 U.S.C. § 103(a) as being obvious over Bessette in view of JP 62148405. The Examiner asserts that Bessette teaches herbicidal compositions comprising water, surface active agents, colorants and iron salts, and 2.5% humic/fulvic acids for application to weeds and grass; and that JP '405 teaches herbicidal compositions comprising colorants such as acid blue 1.

Independent Claims 1, 15 and 28

Claims 1, 15 and 28 have been amended to recite, in pertinent part, an aqueous green foliage colorant composition consisting of humic acid, fulvic acid, water and a water soluble acid blue dye. Thus, claims 1, 15 and 28 as amended recite an aqueous green foliage colorant composition closed to any other constituents.

Applicant points out that nowhere in Bessette or JP '405 is there a teaching or a suggestion to combine humic acid and fulvic acid with an acid blue dye to obtain a green foliage colorant. Rather, Bessette teaches a herbicidal composition containing clove oil in which humic acid and fulvic acid can be added to serve as an adjuvant to the herbicide. With respect to JP '405, this reference also discloses a herbicidal composition in which a dye is added, such as acid blue. Such an addition of dye to the herbicidal composition no doubt is added to impart color to its herbicide for safety reasons so as to distinguish the herbicide from water.

More importantly, Applicant points out that claims 1, 15 and 28 have been amended to recite the transitional phrase "consisting of," and thus claims 1, 15 and 28 are closed to any other constituents, such as the clove oil disclosed by Bessette.

Applicant, therefore, submits that one skilled in the art would not be motivated to combine the teachings of Bessette or JP '405 to obtain the unexpected and surprising natural green foliage colorant with a reasonable expectation of success, as required by claims 1, 15 and 28. Applicant respectfully submits, therefore, that neither Bessette nor JP '405, either alone or in combination, teaches or suggests the green foliage colorant composition of the claimed invention as claimed in claims 1, 15 and 28, in which the combination of humic acid, fulvic acid and an acid blue dye results surprisingly in a green foliage colorant.

Dependent Claims 10, 16 and 17

Claims 10 and 17 have been canceled. The features of dependent claim 16 are not asserted as independently establishing patentability apart from the claim from which it depends, and thus it too is deemed neither to be taught nor suggested by Bessette and JP '405, either alone or in combination. Applicant, therefore, respectfully requests withdrawal of the rejection of claim 16 under 35 U.S.C. § 103(a).

In view of the foregoing amendments and remarks, it is respectfully submitted that all pending claims 1, 8, 15, 16, 18, 19 and 28 in the present application are patentable over the cited prior art. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

Respectfully submitted,

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